

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER OF ADJUDICATION (CHILD PROTECTIVE PROCEEDINGS), PAGE 1 ORDER ____ OF ____	CASE NO. PETITION NO.
Court address		Court telephone no.

1. In the matter of
name(s), alias(es), DOB

2. Date of hearing: _____ Judge/Referee: _____ Bar no.

A ☐ 3. Removal date: _____ (specify for each child if different)

B THE COURT FINDS:

4. The child(ren) ☐ is/are ☐ is/are not subject to the continuing jurisdiction of another court. Court: _____

5. A petition has been submitted alleging that the above child(ren) come(s) within the provisions of MCL 712A.2(b).

C 6. ☐ Notice of hearing was given as required by law. ☐ Notice of proceedings is to be given as required by law.

D 7. The respondent(s) _____
name(s)
appeared in court in person or by _____ and ☐ was represented by an attorney.
Manner of appearance
☐ waived representation by an attorney.

E ☐ 8. The plea by _____ is knowingly, understandingly, and voluntarily made.
Name(s)

F 9. After ☐ trial, ☐ plea, and by ☐ a preponderance of the evidence, ☐ clear and convincing evidence,
☐ a. there are no statutory grounds to exercise jurisdiction over the child(ren).
☐ b. there are statutory grounds to exercise jurisdiction over the child(ren) (MCL 712A.2[b]). The statutory ground(s) is/are:
☐ failure to provide, when able to do so, support, education, medical, surgical, or other necessary care for health or morals.
☐ substantial risk of harm to mental well-being.
☐ abandonment by parents.
☐ lack of proper custody or guardianship.
☐ an unfit home environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian.
☐ failure to comply with a limited guardianship placement plan.
☐ failure to comply with a court-structured guardianship plan.
☐ when a guardianship is in place, failure to provide support or to regularly visit, contact or communicate with the child(ren) for a period of 2 years, either before or after a guardianship petition was filed and a support order entered.

G 10. Specific findings of facts and law are ☐ on the record. ☐ in the attached written opinion. ☐ as noted below.

(SEE SECOND PAGE)

USE NOTE: Do not use this form when the court conducts the dispositional hearing immediately following adjudication. Use form JC 17 instead.

Do not write below this line - For court use only

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER OF ADJUDICATION (CHILD PROTECTIVE PROCEEDINGS), PAGE 2 ORDER ____ OF ____	CASE NO. PETITION NO.
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In the matter of

H

- ☐ 11. ☐ a. Contrary to the welfare findings were made in a prior order.
☐ b. It is contrary to the welfare of the child(ren) to remain in the home because: (attach separate sheets as necessary)

I

- ☐ 12. ☐ a. Based on testimony, there is probable cause to believe the legal/putative father(s) is/are:
 (name each child, his/her father, and whether legal or putative)

- ☐ b. The putative father of _____ is unknown and cannot be identified.
☐ c. The natural father was notified as required by law and failed to establish paternity within the time set by the court. The natural father waives all rights to further notice, including the right to notice of termination of parental rights and the right to an attorney.

J

- ☐ 13. ☐ a. Reasonable efforts to prevent removal of the child(ren) from the home were made as determined in a prior order.
☐ b. Reasonable efforts were made to prevent removal of the child(ren) from the home. Those efforts include: (specify)

☐ c. Reasonable efforts to prevent removal of the child(ren) from the home were not made.

☐ d. Reasonable efforts to prevent removal of the child(ren) from the home were not required as determined in a prior order.

K

- ☐ 14. a. Reasonable efforts are not required to prevent the child(ren)'s removal from the home due to
☐ the ☐ mother ☐ father _____ subjecting the child(ren) to the aggravated circumstance(s) of
 _____ as provided in section MCL 722.638(1) and (2), and as evidenced

by _____

- ☐ the ☐ mother's ☐ father's conviction for murder of another child of the parent.
☐ the ☐ mother's ☐ father's conviction for voluntary manslaughter of another child of the parent.
☐ the ☐ mother's ☐ father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.
☐ the ☐ mother's ☐ father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.
☐ the ☐ mother's ☐ father's involuntary termination of parental rights to a sibling of the child(ren).

- b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are
☐ not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.

OR

☐ still recommended because:

(when item 14 is checked, either complete item 16 below or schedule a permanency planning hearing within 30 days of this determination)

NOTE: If the child(ren) were not removed prior to adjudication and the court determines at trial that removal is necessary, the court must make the required findings regarding contrary to the welfare and reasonable efforts to prevent removal.

(SEE THIRD PAGE)

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER OF ADJUDICATION (CHILD PROTECTIVE PROCEEDINGS), PAGE 3 ORDER ____ OF ____	CASE NO. PETITION NO.
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In the matter of

- L** ☐ 15. ☐ a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.
☐ b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.
- M** ☐ 16. Since reasonable efforts to prevent removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (**use and attach form JC 64**, Order Following Permanency Planning Hearing, Pre-Termination)
- N** 17. Conditions of custody in the home and with the individual with whom the child(ren) reside(s):
☐ a. are adequate to safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, and mental well-being.
☐ b. are not adequate to safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, and mental well-being.
☐ No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, and mental well-being.
☐ Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s life, physical health, and mental well-being.
- O** ☐ 18. Parenting time with _____, even if supervised, may be harmful to the child(ren).

IT IS ORDERED:

- P** ☐ 19. The petition is dismissed, the child(ren) is/are released to _____, and the jurisdiction of this court is terminated except that the court reserves the right to enforce orders for reimbursement of court costs, attorney fees, and other assessments that have accrued up to and including the date of this order.
- Q** ☐ 20. Notice is to be given to the legal/putative father(s) as required by law. ☐ The father was not present and must appear at the next hearing. ☐ The putative father was present at this hearing and shall establish paternity within 14 days.
- R** ☐ 21. The child(ren)
☐ is/are placed with the Department of Human Services for care and supervision, and
 a. the parent, guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren), including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider of the child(ren) shall release the medical records of the child(ren) to the Department of Human Services.
 b. if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
 c. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).

☐ remain home with or is/are released to _____ under the supervision of
 Name of parent, guardian, or legal custodian
 the Department of Human Services. ☐ The following terms and conditions apply to the parent/guardian/legal custodian:

- S** ☐ 22. Each child shall have ☐ a psychological evaluation ☐ counseling to determine appropriateness and conditions of parenting time.

(SEE FOURTH PAGE)

In the matter of

☐ 23. Parenting time of _____ is

- ☐ supervised by the Department of Human Services and/or its designee.
- ☐ unsupervised at the discretion of the Department of Human Services.
- ☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

☐ 24. Parenting time of _____ is

- ☐ supervised by the Department of Human Services and/or its designee.
- ☐ unsupervised at the discretion of the Department of Human Services.
- ☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

☐ 25. Parenting time of _____ is

- ☐ supervised by the Department of Human Services and/or its designee.
- ☐ unsupervised at the discretion of the Department of Human Services.
- ☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

26. Placement shall continue pending disposition on _____
Date and time

☐ 27. Other:

28. Prior orders remain in effect except as modified by this order.

Date _____

Judge _____

MCL 722.638 - AGGRAVATED CIRCUMSTANCES

- (1) The Department shall submit a petition for authorization by the court under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, if one or more of the following apply:
 - (a) The Department determines that a parent, guardian, or legal custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included one or more of the following:
 - (i) Abandonment of a young child.
 - (ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
 - (iii) Battering, torture, or other severe physical abuse.
 - (iv) Loss or serious impairment of an organ or limb.
 - (v) Life threatening injury.
 - (vi) Murder or attempted murder.
 - (b) The Department determines that there is risk of harm to the child and either of the following is true:
 - (i) The parent's rights to another child were terminated as a result of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
 - (ii) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
- (2) In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk, the Department of Human Services shall include a request for termination of parental rights at the initial dispositional hearing as authorized under Section 19b of Chapter XIIA of 1939 PA 288, MCL 712A.19b.

Instructions for Using JC 49

This is a new form. It is designed to be used by courts that complete adjudication and then subsequently, after a period of time, complete disposition. If your court completes adjudication and disposition contemporaneously, use JC 17 (order of disposition) instead of this form.

MCR 3.972 pertains to trial in child protective proceedings, also known as adjudication. The court rule requires that trial commence within six months for a child not in foster care, or within 63 days of placement by the court for a child in foster care. There are certain exceptions to this time requirement. However, if the trial is postponed, the child must be released to the parent, guardian, or legal custodian, unless the **court finds** that doing so will likely result in physical harm or serious emotional damage to the child.

Administrative Order 2003-7, which sets out caseload management guidelines, established a guideline that 90 percent of cases in which a child is in foster care should have adjudication and disposition completed within 84 days, and 100 percent should have adjudication and disposition completed within 98 days. For children not in foster care, 75 percent of all original petitions should have adjudication and disposition completed within 119 days from the petition's authorization, 90 percent within 182 days, and 100 percent should have adjudication and disposition completed within 210 days.

- A** 3. The removal date is prominently placed to make it clear when subsequent review hearings must occur. In addition, there is a check box here because the children may not have been removed from the home.
- B** 4. MCR 3.927 requires (pursuant to MCR 3.205) notice to courts with continuing jurisdiction over a minor. The court with continuing jurisdiction is then required to provide copies of orders entered in the prior proceedings.
- C** 6. Notice is required to be noted by the court because MCR 3.972(B)(1) allows the court to proceed in the absence of the respondent **provided notice has been served** on him or her. Thus, the court must find either that notice was given as required, or shall be given as required.
- D** 7. This provision requires the court to identify who appeared and in what manner. MCR 2.004 allows a respondent or party to appear and participate in a manner other than personal appearance (by telephone, if incarcerated).

This provision also requires the court to note on the order whether the respondent was represented by counsel or waived such representation. MCR 3.915(B)(1)(c) allows a respondent in a child protective proceeding to waive representation by counsel; otherwise, the court is required to appoint counsel for the respondent if the respondent requests it, **and** it appears to the court that the respondent is financially unable to retain his or her own counsel. MCR 3.915(B)(1)(b); MCL 712A.17c.

- E** 8. MCR 3.971 allows a respondent to plead no contest or admit the allegations in the petition. However, the “court shall not accept a plea of admission or of not contest without satisfying itself that the plea is knowingly, understandingly, and voluntarily made.”

Instructions for Using JC 49 (continued)

- F** 9. This provision is where the court will state its findings as to whether there are statutory grounds to exercise jurisdiction over the child, which is required pursuant to MCR 3.972(E). Even if a court accepts a plea of admission or no contest, however, it must “establish[] support for a finding that one or more of the statutory grounds alleged in the petition are true, preferably by questioning the respondent. . . .” If the respondent pleads no contest, the court may not question the respondent, but must find some other means of establishing that one or more of the statutory grounds alleged in the petition are true.

There are two standards of proof listed: the preponderance of the evidence standard (which is the correct standard in all non-Indian adjudication proceedings) and the clear and convincing standard, which is the appropriate standard for removing or retaining in placement an Indian child as defined by the Indian Child Welfare Act, 25 USC 1901 et seq.

The grounds for taking jurisdiction over a child, as laid out in MCL 712A.2(b), are listed in this item.

- G** 10. This provision requires a court to make specific findings of fact and law about what led it to the conclusion that there are statutory grounds to exercise jurisdiction over the child. The options include the various ways judges may make their findings: on the record, in an attached opinion, or listed on the order of adjudication.
- H** 11. Because a court could conceivably remove a child from the child’s home up to the point of adjudication, the “contrary to the welfare” findings are included as an option at this point. Both findings (that they were made in a prior order or that they are listed on this order) have check boxes, since the child may not be removed.
- I** 12. There is a check box in front of item 12 because identifying the father at adjudication is not mandatory, although obviously that identification should be accomplished at the earliest possible time in the proceedings.
- J** 13. Because a court could conceivably remove a child from the child’s home up to the point of adjudication, the “reasonable efforts to prevent removal” findings are included as an option at this point. These findings are also included because it may be the case that adjudication occurs within 60 days of removal, and the court would still be able to make these findings to be eligible for Title IV-E funding.
- K** 14. This provision specifically addresses the situation in which reasonable efforts are not required to be made. It also incorporates findings regarding the fact that reasonable efforts to reunify the family are not required or are still recommended.

Courts are allowed to find that reasonable efforts to prevent removal are not required because the offense fits within specific federal and state exemptions to the “reasonable efforts” requirement. See MCR 3.965(D)(2); 45 CFR 1256.21(b)(3). The offenses for which a court can find that reasonable efforts to prevent removal are not required include both aggravated circumstances as defined by Michigan’s Child Protection Law (MCL 722.638) as well as specific situations listed in the federal regulations. The

Instructions for Using JC 49 (continued)

aggravated circumstances included in our state law are set forth for the court's convenience on page 4 of the form, and the federal regulations allowing for no "reasonable efforts" finding are listed in this provision. Keep in mind that finding reasonable efforts are not required *triggers the requirement that a permanency planning hearing be held within 30 days*. 45 CFR 1256.21(h)(2).

State statutes also require reasonable efforts to preserve and reunify the family unless there are aggravated circumstances. MCL 712A.19a(2). Further, the statute states that if there is a judicial determination that reasonable efforts to reunite the child and family are not required, the court must hold a permanency planning hearing within 30 days. Thus, a permanency planning hearing must be held within 30 days of a judicial determination that reasonable efforts to prevent removal or to preserve and reunify the family are not required. There is also an option in this section of the form to allow the court to require reasonable efforts to preserve and reunify the family continue, if the court finds it appropriate to do so.

- L** 15. This new provision combines the "reasonable efforts" options to preserve and reunify the family following the adjudication. The options are that reasonable efforts to reunify shall be made or shall not be made.
- M** 16. Another option following adjudication is holding a permanency planning hearing. Item 16 is designed to be used by courts that hold a permanency planning hearing immediately after adjudication at which it found that reasonable efforts to prevent removal and to reunify the family are not required. The use note makes it clear that JC 64 should also be used in this situation. Notice requirements must still be met (or a signed waiver of notice completed) if the court intends to hold a permanency planning hearing immediately after adjudication.
- N** 17. MCL 712A.13a(5) requires that if a petition alleges abuse by a parent, guardian, custodian, nonparent adult or other person residing in a child's home, the court must make certain findings about the child's safety. The court must make a finding that "the conditions of custody at the placement and with the individual are adequate to safeguard the child's well-being." This item must be checked and filled out when a person living in the child's home is the alleged abuser. It should also be checked when the alleged abuser is not in the home, because the court must make a finding that the child's placement is adequate to safeguard the child.
- O** 18. MCL 712A.13a requires that a court make this finding if a court wants to order a psychological evaluation or counseling for the child. That statute also allows a court to suspend parenting time while the evaluation or counseling continues.
- P** 19. If the court finds there are no statutory grounds to exercise jurisdiction over the child, the court may dismiss the petition and terminate jurisdiction.
- Q** 20. This provision includes the choices a court may make regarding putative fathers.

Instructions for Using JC 49 (continued)

- R** 21. This provision includes the placement options for a child, which include placement with DHS for care and supervision (required for Title IV-E eligibility), or placement elsewhere under supervision of DHS and with optional terms and conditions a court may order.
- S** 22. This is the order provision for psychological evaluation or counseling for the child regarding parenting time (the finding in item 18 must be made to order the evaluation or counseling in this section).
- T** 23-25. These identical parenting time provisions allow the court to order parenting time (supervised or unsupervised) or to suspend parenting time while the child undergoes the psychological evaluation or counseling ordered in item 18 of this form. And while MCL 712A.19b(4) and MCR 3.977(D) require that parenting time be suspended in cases in which a petition to terminate parental rights is filed, the court can order parenting time if the parent establishes, and the court determines, that the parenting time will not harm the child. If the parent cannot establish, or the court does not determine that allowing parenting time will not harm the child, the statute requires parenting time to remain suspended until the termination petition is adjudicated or the issue is settled.

Three separate parenting time provisions are included to accommodate different parenting time schedules, but if parenting time is the same for all parties, only one item need be filled out.

- U** 26. This provision creates specific notice regarding the dispositional hearing, which (for a child in placement) must occur within 35 days of adjudication, except for good cause.
- V** 28. Typically, specific provisions of an order remain in effect if this language is present (that “prior orders remain in effect except as modified by this order”). However, this has been an issue with DHS, which has refused to authorize payment unless the most recently-entered court order requiring a particular service continues to reflect that court’s ordering of that service. As a best practice, and to avoid the issue of whether the court is continuing to order a particular service DHS is responsible for, a court should specifically order, in each consecutive order, any service (such as drug testing), supervision (for parenting time), or placement that requires financial funding by DHS. In addition, as a best practice, courts should indicate in each order that reasonable efforts to prevent removal were made in a prior order (whether those efforts are required or not) to clarify that those findings have been made, which then allows for funding for those eligible under Title IV-E.